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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 0906221072-91425-02]

RIN 0648-XA781

Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Non-Sandbar Large Coastal Shark Fishery in the Atlantic Region

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishery closures.

SUMMARY: NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Atlantic region. This action is necessary under existing regulations because landings in this fishery have exceeded 80 percent of the available quota.

DATES: The commercial non-sandbar LCS fishery in the Atlantic region is closed effective 11:30 p.m. local time November 15, 2011, until the effective date of the final 2012 shark season specifications, which NMFS will publish as a separate document in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper, 301-427-8503; (fax) 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations found at 50 CFR part 635 and issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Under § 635.5(b)(1), shark dealers are required to report to NMFS every two weeks all sharks landed. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a species group have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the Federal Register, that additional quota is available and the season is reopened, the fishery for that species group is closed, even across fishing years.

On December 8, 2011 (75 FR 76302), NMFS announced that the

non-sandbar LCS fishery quota in the Atlantic region for the 2011 fishing year would be 190.4 metric tons (mt) dressed weight (dw) (419,756 lb dw). Dealer reports through November 1, 2011, indicate that 140.6 mt dw or 74 percent of the available quota for non-sandbar LCS Atlantic fishery has been landed. Assuming landings continue at the current rate, NMFS projects that 83 percent of the quota will be landed by November 15. Dealer reports received to date indicate that 22 percent of the quota was landed from the opening of the fishery on July 15, 2011, through July 31, 2011; 20 percent of the quota was landed in August; 21 percent of the quota was landed in September; and 11 percent of the quota was landed in October. Because this exceeds the 80 percent threshold specified in the regulations, NMFS is closing the commercial non-sandbar LSC fishery in the Atlantic region as of 11:30 p.m. local time November 15, 2011. This closure does not affect any other shark fishery.

As such, as of November 15, 2011, all commercial non-sandbar LCS fisheries in all regions and fisheries will be closed. All of the pelagic shark fisheries will remain open.

During this closure a fishing vessel issued an Atlantic Shark limited access permit (LAP) pursuant to § 635.4 may not possess or sell a non-sandbar LCS. A shark dealer, issued a permit pursuant to § 635.4, may not purchase or receive non-

sandbar LCS from a vessel issued an Atlantic Shark Limited Access Permit, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage consistent with 50 CFR § 635.28(b)(4). Additionally, a shark dealer issued a Federal permit pursuant to § 635.4, may in accordance with state regulations, purchase or receive a non-sandbar LCS if the shark was harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and had not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

#### Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest because the fisheries are currently underway, and any delay in this action would cause overharvest of the quotas and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quotas are exceeded, the affected public is likely to experience reductions in the available

quotas and a lack of fishing opportunities in future seasons. Thus, for these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under 50 CFR 635.28(b)(2) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: November 3, 2011

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Steven Thur,  
Acting Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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